

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
SEWER DISTRICT No. 2 OF  
WHATCOM COUNTY, et al.,

Appellants,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY, and  
LUMMI INDIAN BUSINESS COUNCIL,

Respondents.

PCHB No. 79-41

ORDER GRANTING  
LUMMI INDIAN BUSINESS  
COUNCIL'S MOTION TO  
DISMISS APPEAL

Respondent Lummi Indian Business Council's Motion to Dismiss came before the Pollution Control Hearings Board, Nat Washington, Chairman, and David Akana (presiding) at a hearing in Seattle on April 3, 1980.

Having considered the Lummi Indian Business Council's (LIBC) Motion to Dismiss together with the memorandum filed by counsel, and having considered the Motion to Dismiss filed by the appellant and the memorandum pertinent thereto, the Board now finds and rules as follows:

1. The certification on appeal is not a decision or order of the Department of Ecology which is appealable to this Board pursuant to chapter 43.21B RCW. Neither does the certification fall within the definition of a "license" as defined in RCW 34.04.010(4). Accordingly, this Board does not have jurisdiction to hear this matter and the appeal should be dismissed.

2. Additionally the Board's sua sponte order joining LIBC in the matter is hereby rescinded, it appearing that LIBC has refused to be bound by any decision rendered in this matter by asserting its sovereign immunity and denying this Board jurisdiction over it.

It is ordered that the appeal in the matter is dismissed and further proceedings herein stricken.

DATED this 9<sup>th</sup> day of April, 1980.

POLLUTION CONTROL HEARINGS BOARD

*Nat W Washington*  
NAT W. WASHINGTON, Chairman

DAVID AKANA, Member